

CLOSED

15

**U.S. District Court  
Western District of Kentucky (Louisville)  
CRIMINAL DOCKET FOR CASE #: 3:10-cr-00021-TBR-1**

Case title: USA v. Hardy

Date Filed: 02/17/2010  
Date Terminated: 12/21/2010

Assigned to: Senior Judge Thomas B.  
Russell

Case: 2:13-cr-20287  
Judge: Borman, Paul D.  
Filed: 04-18-2013 At 04:43 PM

**RECORD RECEIVED**

**Defendant (1)**

**Andre Hardy**  
TERMINATED: 12/21/2010

represented by **Brendan Joseph McLeod**  
539 W. Market Street  
2nd Floor  
Louisville, KY 40202  
502-561-9797  
Fax: 502-561-9717  
Email: kyccrimlaw@gmail.com  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Pending Counts**

CONTROLLED SUBSTANCE -  
POSSESSION  
(1)

**Disposition**

Imprisonment 30 months; supervised  
release 3 years; SPA \$100

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition**

**Plaintiff**

USA

represented by **Robert J. Kilmartin**  
 U.S. Attorney Office - Louisville  
 717 W. Broadway  
 Louisville, KY 40202  
 502-582-6217  
 Fax: 502-582-5097  
 Email:  
 kywd\_ecf\_deadletter@kywd.uscourts.gov

**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
02/17/2010	<u>1</u>	INDICTMENT as to Andre Hardy (1) count(s) 1. (CSD) (Entered: 02/17/2010)
02/17/2010	<u>2</u>	Case Assignment (Random Selection): Case Assigned to Chief Judge Thomas B. Russell. Magistrate designation: USMJ James D. Moyer. (CSD) (Entered: 02/17/2010)
02/17/2010	<u>3</u>	NOTICE OF ATTORNEY APPEARANCE Robert J. Kilmartin appearing for USA. (CSD) (Entered: 02/17/2010)
02/17/2010	<u>4</u>	Sealed Document re <u>1</u> Indictment (TLB) (Entered: 02/18/2010)
02/18/2010	<u>5</u>	Sealed Document (TLB) (Entered: 02/18/2010)
02/25/2010		Proceedings held before Magistrate Judge Dave Whalin:Arraignment, Initial Appearance as to Andre Hardy held on 2/25/2010 (Digitally Recorded Proceedings.) (CSD) (Entered: 02/26/2010)
02/25/2010	<u>7</u>	APPEARANCE BOND as to Andre Hardy in amount of \$25,000. unsecured. cc: counsel, usms, uspo (CSD) (Entered: 02/26/2010)
02/25/2010	<u>8</u>	ACKNOWLEDGMENT of right to appointment of counsel. (CSD) (Entered: 02/26/2010)
02/25/2010	<u>9</u>	NOTICE OF ATTORNEY APPEARANCE: Brendan Joseph McLeod appearing for Andre Hardy (CSD) (Entered: 02/26/2010)
02/26/2010	<u>6</u>	ORDER by Magistrate Judge Dave Whalin on 02/26/2010 as to Andre Hardy re Arraignment, Initial Appearance held 02/25/2010; bond set \$25,000 unsecured with special conditions of release. Telephone Conference set for 3/18/2010 11:00 AM ET before Chief Judge Thomas B. Russell. cc:counsel, usms,uspo (CSD) (Entered: 02/26/2010)
03/25/2010	<u>10</u>	Order for proceedings held before Chief Judge Thomas B. Russell:Telephone Conference as to Andre Hardy held on 3/18/2010. Telephone Conference set for 4/16/2010 01:00 PM CDT before Chief Judge Thomas B. Russell. Delay excluded from STA. (Court Reporter Terri Turner.) cc:counsel (CSD) (Entered: 03/25/2010)
04/16/2010	<u>11</u>	Order for proceedings held before Chief Judge Thomas B. Russell:Telephone Conference as to Andre Hardy held on 4/16/2010. Telephone Conference set

		for 5/14/2010 01:00 PM EDT before Chief Judge Thomas B. Russell; delay excluded from STA. (Court Reporter Terri Turner.) cc:counsel (CSD) (Entered: 04/16/2010)
05/17/2010	<u>12</u>	Order for proceedings held before Chief Judge Thomas B. Russell: Telephone Conference as to Andre Hardy held on 5/17/2010( Change of Plea Hearing set for 8/16/2010 12:30 PM in Louisville Courtroom before Chief Judge Thomas B. Russell.) (Court Reporter Terri Gurner.) cc:counsel, usm, uspo (CSD) (Entered: 05/17/2010)
08/16/2010	<u>13</u>	PLEA AGREEMENT as to Andre Hardy (CSD) (Entered: 08/17/2010)
08/16/2010		Proceedings held before Chief Judge Thomas B. Russell: Change of Plea Hearing as to Andre Hardy held on 8/16/2010, Plea entered by Andre Hardy (1) Guilty Count 1. (Court Reporter Terri Turner.) (CSD) (Entered: 08/20/2010)
08/20/2010	<u>14</u>	ORDER by Chief Judge Thomas B. Russell on 08/19/2010 as to Andre Hardy re Change of Plea Hearing held 08/16/2010, Sentencing set for 12/17/2010 09:30 AM in Louisville Courtroom before Chief Judge Thomas B. Russell. cc:counsel, usm, uspo (CSD) (Entered: 08/20/2010)
08/20/2010	<u>15</u>	SENTENCING ORDER by Chief Judge Thomas B. Russell on 08/19/2010 as to Andre Hardy (see order for specifics). cc:counsel, uspo (CSD) (Entered: 08/20/2010)
12/06/2010	<u>16</u>	ORDER by Chief Judge Thomas B. Russell (eboc) on 12/06/2010; as to Andre Hardy Sentencing re set for 12/17/2010 08:15 AM in Louisville Courtroom before Chief Judge Thomas B. Russell. cc:counsel, usm, uspo (CSD) (Entered: 12/06/2010)
12/17/2010		Proceedings held before Chief Judge Thomas B. Russell: Sentencing held on 12/17/2010. (Court Reporter Terri L. Turner.) (CSD) (Entered: 12/21/2010)
12/21/2010	<u>17</u>	JUDGMENT and COMMITMENT ORDER by Chief Judge Thomas B. Russell on 12/21/2010; as to Andre Hardy (1), Count(s) 1, Imprisonment 30 months; supervised release 3 years; SPA \$100. cc:counsel, finance, usm, uspo (CSD) (Entered: 12/21/2010)
01/04/2011	<u>18</u>	PRESENTENCE INVESTIGATION/STATEMENT OF REASON REPORT (Sealed) as to Andre Hardy. SOR cc to USA, Counsel (TLB) (Entered: 01/04/2011)
02/03/2011	<u>19</u>	Judgment Returned Executed as to Andre Hardy on 01/28/2011. (CSD) (Entered: 02/03/2011)
04/16/2013	<u>20</u>	ORDER Transferring Jurisdiction by Senior Judge Thomas B. Russell on 4/15/2013; as to Andre Hardy. Jurisdiction will be transferred upon Court's acceptance cc:counsel (KJA) (Entered: 04/16/2013)
04/16/2013		Remark: order emailed to ED/MI (KJA) (Entered: 04/16/2013)

Transaction Receipt			
04/18/2013 16:41:00			
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U.S. DISTRICT COURT CLERK  
WESTERN DISTRICT OF KY

10 FEB 17 PM 12:36

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

UNITED STATES OF AMERICA

INDICTMENT

v.

NO.

3:10CR-21-R

21 U.S.C. § 841(a)(1)

21 U.S.C. § 841(b)(1)(C)

**ANDRE HARDY**

The Grand Jury charges:

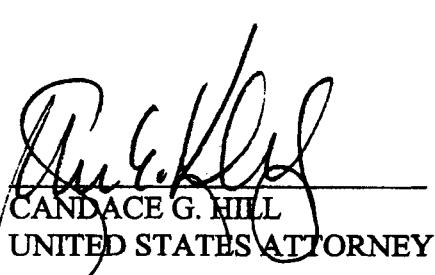
COUNT 1

On or about December 14, 2009, in the Western District of Kentucky, Jefferson County, Kentucky, the defendant, **ANDRE HARDY**, knowingly and intentionally possessed with the intent to distribute Oxycontin pills, a Schedule II controlled substance, as defined in Title 21, United States Code, Section 812.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

A TRUE BILL.

FOREPERSON

  
CANDACE G. HILL  
UNITED STATES ATTORNEY

CGH:RJK:cd 2/4/2010

UNITED STATES OF AMERICA v. ANDRE HARDY

P E N A L T I E S

Count 1: NM 20 yrs./\$1,000,000/both/NL 3 yrs. Supervised Release

N O T I C E

**ANY PERSON CONVICTED OF AN OFFENSE AGAINST THE UNITED STATES SHALL BE SUBJECT TO SPECIAL ASSESSMENTS, FINES, RESTITUTION & COSTS.**

**SPECIAL ASSESSMENTS**

18 U.S.C. § 3013 requires that a special assessment shall be imposed for each count of a conviction of offenses committed after November 11, 1984, as follows:

Misdemeanor: \$ 25 per count/individual	Felony: \$100 per count/individual
\$125 per count/other	\$400 per count/other

**FINES**

In addition to any of the above assessments, you may also be sentenced to pay a fine. Such fine is due immediately unless the court issues an order requiring payment by a date certain or sets out an installment schedule. You shall provide the United States Attorney's Office with a current mailing address for the entire period that any part of the fine remains unpaid, or you may be held in contempt of court. 18 U.S.C. § 3571, 3572, 3611, 3612

**Failure to pay fine as ordered may subject you to the following:**

1. INTEREST and PENALTIES as applicable by law according to last date of offense.

**For offenses occurring after December 12, 1987:**

No INTEREST will accrue on fines under \$2,500.00.

INTEREST will accrue according to the Federal Civil Post-Judgment Interest Rate in effect at the time of sentencing. This rate changes monthly. Interest accrues from the first business day following the two week period after the date a fine is imposed.

**PENALTIES of:**

10% of fine balance if payment more than 30 days late.

15% of fine balance if payment more than 90 days late.

2. Recordation of a LIEN shall have the same force and effect as a tax lien.
3. Continuous GARNISHMENT may apply until your fine is paid.

**18 U.S.C. §§ 3612, 3613**

If you **WILLFULLY** refuse to pay your fine, you shall be subject to an **ADDITIONAL FINE** of not more than the greater of \$10,000 or twice the unpaid balance of the fine; or **IMPRISONMENT** for not more than 1 year or both. 18 U.S.C. § 3615

**RESTITUTION**

If you are convicted of an offense under Title 18, U.S.C., or under certain air piracy offenses, you may also be ordered to make restitution to any victim of the offense, in addition to, or in lieu of any other penalty authorized by law. 18 U.S.C. § 3663

**APPEAL**

If you appeal your conviction and the sentence to pay your fine is stayed pending appeal, the court shall require:

1. That you deposit the entire fine amount (or the amount due under an installment schedule during the time of your appeal) in an escrow account with the U.S. District Court Clerk, or
2. Give bond for payment thereof.

18 U.S.C. § 3572(g)

**PAYMENTS**

If you are ordered to make payments to the U.S. District Court Clerk's Office, certified checks or money orders should be made payable to the Clerk, U.S. District Court and delivered to the appropriate division office listed below:

LOUISVILLE:	Clerk, U.S. District Court 106 Gene Snyder U.S. Courthouse 601 West Broadway Louisville, KY 40202 502/625-3500
BOWLING GREEN:	Clerk, U.S. District Court 120 Federal Building 241 East Main Street Bowling Green, KY 42101 270/393-2500
OWENSBORO:	Clerk, U.S. District Court 126 Federal Building 423 Frederica Owensboro, KY 42301 270/689-4400
PADUCAH:	Clerk, U.S. District Court 127 Federal Building 501 Broadway Paducah, KY 42001 270/415-6400

If the court finds that you have the present ability to pay, an order may direct imprisonment until payment is made.

No. \_\_\_\_\_

**UNITED STATES DISTRICT COURT**  
Western District of Kentucky  
Louisville Division

**THE UNITED STATES OF AMERICA**  
vs.  
**ANDRE HARDY**

**INDICTMENT**

**Title 21 U.S.C. §§ 841(a)(1); 841(b)(1)(C):  
Possession With the Intent to Distribute  
Oxycontin Pills.**

*A true*

*Foreman*

*Filed in open court this 17th day, of February A.D. 2010.*

*Clerk*

*Bail, \$*

10 FEB 17 PM 12:37  
FILED : JS  
US DISTRICT CLERK'S OFFICE  
WESTERN DISTRICT OF KENTUCKY

United States District Court  
Western District of Kentucky  
LOUISVILLE DIVISION

UNITED STATES OF AMERICA  
v.  
ANDRE HARDY

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

**Case Number: 3:10CR-21-R**

**US Marshal No: 11960-033**

Counsel For Defendant: **Mr. Brendan J. McLeod, retained counsel**

Counsel For The United States: **Robert J. Kilmartin, Asst. U.S. Atty.**

Court Reporter: **Terri Turner**

**THE DEFENDANT:**

pursuant to a Rule 11(c)(1)(B) plea agreement

pleaded guilty to Count 1 of the single count Indictment on August 16, 2010, knowingly, willingly and voluntarily.

Pleaded nolo contendere to count(s)  
which was accepted by the court.

Was found guilty on count(s)  
after a plea of not guilty

ACCORDINGLY, the Court has adjudicated that the defendant is guilty of the following offense(s):

<b>Title &amp; Section Number(s)</b>	<b>Nature of Offense</b>	<b>Date Offense Concluded</b>	<b>Count</b>
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**FOR CONVICTION OFFENSE(S) DETAIL - SEE COUNTS OF CONVICTION ON PAGE 2**

The defendant is sentenced as provided in pages 2 through 7 Of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)

Count(s) (Is) (are) dismissed on the motion of the United States.

**IT IS ORDERED** that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the Court and the United States Attorney of any material change in the defendant's economic circumstances.

**IT IS FURTHER ORDERED** that the presentence report be returned to the United States Probation Office, and shall be available to counsel on appeal. **IT IS FURTHER ORDERED** that the sentencing recommendation be returned to the United States Probation Office, and shall not be available to counsel on appeal.

December 17, 2010  
Date of Imposition of Judgment

December 21, 2010



Thomas B. Russell  
Chief Judge, U.S. District Court

DEFENDANT: **HARDY, ANDRE**  
CASE NUMBER: **3:10CR-21-R**

## COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense</u>	<u>Concluded</u>	<u>Count</u>
21 U.S.C. 841(b)(1)(C)	Knowingly and Intentionally Possess With Intent to Distribute Oxycontin, a Schedule II Controlled Substance	12/14/2009		1

DEFENDANT: **HARDY, ANDRE**  
CASE NUMBER: **3:10CR-21-R**

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 30 months as to Count 1 in the Indictment.

The Court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at A.m. / p.m. on

as notified by the United States Marshal.

**The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:.**

Before 2:00 p.m. on

**as notified by the United States Marshal not before January 5, 2011.**

As notified by the Probation or Pretrial Services Office.

**The defendant shall continue under the terms and conditions of his present bond pending surrender to the institution.**

## RETURN

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ To \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

DEFENDANT: **HARDY, ANDRE**  
CASE NUMBER: **3:10CR-21-R**

## **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to Count 1.

The defendant shall report to the probation office in the district in which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.**
- The defendant shall cooperate in the collection of DNA as directed by the probation officer.**
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer.
- The defendant shall participate in an approved program for domestic violence.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

## **STANDARD CONDITIONS OF SUPERVISION**

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of Each month;
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) The defendant shall support his or her dependents and meet other family responsibilities;
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other Acceptable reasons;
- 6) The defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) The defendant shall refrain from excessive use of alcohol;
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a Felony unless granted permission to do so by the probation officer;
- 10) The defendant shall permit a probation officer to visit him or her at anytime at home or elsewhere and shall permit confiscation of any Contraband observed in plain view of the probation officer;
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the Permission of the court;
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal Record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the Defendant's compliance with such notification requirement.

**DEFENDANT: HARDY, ANDRE**  
**CASE NUMBER: 3:10CR-21-R**

### **ADDITIONAL SUPERVISED RELEASE TERMS**

14) The defendant shall participate in a program approved by the U.S. Probation Office for treatment of narcotic addiction or drug or alcohol dependency, which will include testing for the detection of substance use or abuse.

DEFENDANT: **HARDY, ANDRE**  
CASE NUMBER: **3:10CR-21-R**

## CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>Totals:</b>	<b>\$ 100</b>	<b>\$ 0</b>

**The fine and the costs of incarceration and supervision are waived due to the defendant's inability to pay.**

The determination of restitution is deferred until  . An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

**Restitution is not an issue in this case.**

The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(I), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>** Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order Or Percentage Of Payment</u>
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If applicable, restitution amount ordered pursuant to plea agreement. . . . . \$

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. 3612(f). All of the payment options on Sheet 5, Part B may be subject to Penalties for default and delinquency pursuant to 18 U.S.C. 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

The interest requirement is waived for the  Fine and/or  Restitution

The interest requirement for the  Fine and/or  Restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: **HARDY, ANDRE**  
CASE NUMBER: **3:10CR-21-R**

## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A  Lump sum payment of \$ Due immediately, balance due  
 not later than \_\_\_\_\_, or  
 in accordance with C, D, or E below); or
- B  Payment to begin immediately (may be combined with C, D, or E below); or
- C  Payment in (E.g. equal, weekly, monthly, quarterly) installments of \$  
Over a period of (E.g. months or years) year(s) to commence (E.g., 30 or 60 days) after the date of  
This judgment, or
- D  Payment in (E.g. equal, weekly, monthly, quarterly) installments of \$  
Over a period of (E.g. months or years) year(s) to commence (E.g., 30 or 60 days) after  
Release from imprisonment to a term of supervision; or
- E  Special instructions regarding the payment of criminal monetary penalties:

**Any balance of criminal monetary penalties owed upon incarceration shall be paid in quarterly installments of at least \$25 based on earnings from an institution job and/or community resources (other than Federal Prison Industries), or quarterly installments of at least \$60 based on earnings from a job in Federal Prison Industries and/or community resources, during the period of incarceration to commence upon arrival at the designated facility.**

**Upon commencement of the term of supervised release, the probation officer shall review your financial circumstances and recommend a payment schedule on any outstanding balance for approval by the court. Within the first 60 days of release, the probation officer shall submit a recommendation to the court for a payment schedule, for which the court shall retain final approval.**

**Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons Inmate Financial Responsibility Program, are to be made to the United States District Court, Gene Snyder Courthouse, 601 West Broadway, Suite 106, Louisville, KY 40202, unless otherwise directed by the Court, the Probation Officer, or the United States Attorney.**

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant Name, Case Number, and Joint and Several Amount:

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.